

(2) An Owner of housing assisted under the Section 8 Certificate program may not be an occupant of an assisted dwelling unit, except for assistance on behalf of a member of a cooperative or as provided in § 882.315(a)(2) (unassisted occupancy by an Owner of Shared Housing).

[43 FR 61246, Dec. 29, 1978, as amended at 44 FR 65364, Nov. 9, 1979; 50 FR 38795, Sept. 25, 1985; 51 FR 21309, June 11, 1986; 53 FR 4388, Feb. 16, 1988; 53 FR 7734, Mar. 10, 1988]

§ 882.111 Equal opportunity requirements.

Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063 and all rules, regulations, and requirements issued pursuant thereto. The PHA shall comply with Section 3 of the Housing and Urban Development Act of 1968 and all rules, regulations and requirements issued pursuant thereto.

§ 882.112 Security and utility deposits.

(a) If at the time of the initial execution of the Lease the Owner wishes to collect a security deposit, the maximum amount shall be the greater of one month's Total Tenant Payment or \$50. However, this amount shall not exceed the maximum amount allowable under State or local law. For units leased in place, security deposits collected prior to the execution of a Contract which are in excess of this maximum amount do not have to be refunded until the Family vacates the unit subject to the lease terms. The Family is expected to pay security deposits and utility deposits from its resources and/or other public or private sources.

(b) If a Family vacates the unit, the Owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid Tenant Rent or other amount which the Family owes under the Lease. If a Family vacates the unit owing no rent or other amount under the Lease consistent with State or local law or if such amount is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance to the Family.

(c) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include the amount of interest payable. The Owner shall comply with all State and local laws regarding interest payments on security deposits.

(d) If the security deposit is insufficient to reimburse the Owner for the unpaid Tenant Rent or other amounts which the Family owes under the Lease, or if the Owner did not collect a security deposit, the Owner may claim reimbursement from the PHA for an amount not to exceed the lesser of:

(1) The amount owed the Owner, or

(2) Two month's Contract Rent; minus, in either case, the greater of the security deposit actually collected or the amount of security deposit the Owner could have collected under the program (pursuant to paragraph (a) of this section). Any reimbursement under this section must be applied first toward any unpaid Tenant Rent due under the Lease and then to any other amounts owed. No reimbursement may be claimed for unpaid rent for the period after the Family vacates.

[43 FR 61246, Dec. 29, 1978, as amended at 44 FR 31176, May 31, 1979; 49 FR 19945, May 10, 1984]

§§ 882.113–882.117 [Reserved]

§ 882.118 Obligations of the Family.

(a) The family must:

(1) Supply such certification, release, information or documentation as the PHA or HUD determine to be necessary, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5), submission of Social Security Numbers and verifying documentation (as provided by 24 CFR part 5), submission of signed consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR part 5), and submissions required for an annual or interim reexamination of family income and composition.

(2) Allow the PHA to inspect the dwelling unit at reasonable times and after reasonable notice.

(3) Notify the PHA before vacating the dwelling unit.

(4) In Related Lease Shared Housing, notify the Owner and PHA when one Family learns of the other Family's vacancy or prospective vacancy, in accordance with § 882.335(c)(1)(i).

(5) Use the dwelling unit (or, in the case of Shared Housing, the portion thereof) solely for residence by the Family, and as the Family's principal place of residence; and shall not assign the Lease or transfer the unit.

(b) The Family shall not:

(1) Own or have any interest in the dwelling unit (other than in a manufactured home assisted under subpart F of this part). If the Owner is a cooperative, the Family may be a member of the cooperative.

(2) Commit any fraud in connection with the Section 8 Existing Housing Program.

(3) Receive assistance under the Section 8 Existing Housing Program while occupying, or receiving assistance for occupancy of, any other unit assisted under any Federal housing assistance program (including any section 8 program).

(4) Engage in drug-related criminal activity or violent criminal activity, including criminal activity by any Family member. For the purposes of this section—(i) *Drug-related criminal activity* means one of the following:

(A) The felonious manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(B) The felonious use or possession (other than with intent to manufacture, sell or distribute), of a controlled substance, except that such felonious use or possession must have occurred within one year before the date that the PHA provides notice to an applicant under § 882.216(a)(1), or to a participant under § 882.216(b)(3)(i) of the PHA's determination to deny admission or terminate assistance. Drug-related criminal activity does not include this use or possession, if the Family member can demonstrate that he or she:

(i) Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and

(2) Has recovered from such addiction and does not currently use or possess controlled substances.

(ii) *Violent criminal activity* includes any felonious criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

(iii) *Felonious* means that the criminal activity is classed as a felony under Federal, State, or local law.

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[49 FR 12238, Mar. 29, 1984, as amended at 51 FR 11225, Apr. 1, 1986; 51 FR 21309, June 11, 1986; 53 FR 847, Jan. 13, 1988; 53 FR 6601, Mar. 2, 1988; 53 FR 7734, Mar. 10, 1988; 54 FR 39704, Sept. 27, 1989; 55 FR 28546, July 11, 1990; 56 FR 7538, Feb. 22, 1991; 60 FR 14843, Mar. 20, 1995; 61 FR 13625, Mar. 27, 1996]

§§ 882.119–882.122 [Reserved]

§ 882.123 Conversion of Section 23 Units to Section 8 and Section 23 monitoring.

(a)–(d) [Reserved]

(e) *Section 23 policies for units planned for conversion on or before September 30, 1981.* (1) PHAs shall not enter into new leases with owners for additional units nor shall they renew or extend leases with owners except consistent with the conversion schedules.

(2) Subject to the rights of families under existing leases, PHAs may continue to lease units to families under Section 23 only on a month-to-month basis.

(3) PHAs shall conduct annual inspections of all units to determine whether the units are decent, safe and sanitary.

(4) PHAs shall certify with their requisitions to HUD for payments under the ACC that the units are decent, safe and sanitary, or the PHA shall furnish HUD with a report of the nature of the deficiencies of the units which are not so certified. If an owner's units are not decent, safe and sanitary.

(i) Where the owner is responsible under the terms of the lease for correcting the deficiencies, the PHA shall send the owner written notification requiring the owner to take specified corrective action within a specified time. The notification shall also state that,